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[CEQA.Guidelines@resources.ca.gov](mailto:CEQA.Guidelines@resources.ca.gov)

Holly Roberson  
Land Use Counsel  
The Governor's Office of Planning and Research  
P.O. Box 3044  
Sacramento, CA 95812-3044

Re: Comments of the Lytton Rancheria on Proposed Revisions to Appendix G

Ms. Roberson,

Our firm represents the Lytton Rancheria of California with respect to cultural resources matters. This comment letter is submitted on behalf of the Lytton Rancheria of California (hereinafter, "Lytton Rancheria" or "Tribe"), a federally recognized Indian tribe and sovereign government. While this comment letter focuses specifically on the Proposed Revisions to Appendix G (and by extension to other appendices in the Guidelines), the Tribe would encourage OPR and CNRA to refocus their efforts on preparing adequate guidance for the implementation of AB52 as well. As you are aware, interpretation of statutes is sometimes in the eye of the beholder; many interpretations are often possible. In seeking to follow the letter of the law when crafting guidelines and guidance, the Tribe urges OPR and CNRA to look to the intent and policies behind the Act to provide their interpretations.

#### CEQA Guidelines

The Lytton Rancheria supports revisions much like the proposed Alternative 3 which sets Tribal Cultural Resources separate and apart from those resources predominately evaluated on a scientific basis. AB52 has, for the first time, brought in and acknowledged tribal values when determining whether cultural resources may be impacted. Given that this is a new concept for many, if not most, agencies, we would again encourage providing the broadest interpretations and readings possible so that the agencies begin to understand the significance to tribes.

*Appendices A and C*

In this vein, Lytton supports suggestions that have been made to include tribal consultation as an upfront checklist item so that agencies understand that the tribes are governments and have governmental departments like any other government they will be dealing with for a project. It is not, however, clear to the Tribe whether inclusion of tribes as a reviewing agency on Appendix C would trigger early enough consultation and therefore the Tribe requests further consultation on this issue. The Tribe would also encourage revisions to the flow chart at Appendix A to set forth consultation with tribes earlier in the process.

*Appendix G*

Lytton also supports the modified language for Alternative 3 which has been circulated by other tribes as set forth below:

**Alternative 3**

**TRIBAL CULTURAL RESOURCES.**

Information submitted through consultation with a California Native American Tribe that has requested such consultation may be considered by assist a lead agency in determining what type of environmental document should be undertaken, identifying tribal cultural resources, determining whether the project may adversely affect tribal cultural resources, and if so, how such effects may be avoided or mitigated. Whether or not consultation has been requested, However, regardless of whether tribal consultation occurs or is completed, substantial adverse changes to a tribal cultural resource are to be identified, assessed and mitigated. Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.

1) Would the project cause a substantial adverse change in a site, feature, place, cultural landscape, sacred place, or object, with cultural value to a California Native American Tribe, which is any of the following:

a) Included or determined to be eligible for inclusion in the California Register of Historical Resources?

b) Included in a local register of historical resources?

~~c) Determined by the lead agency, in its discretion and supported by substantial evidence, to be a tribal cultural resource, after applying the criteria in Public Resources Code §5024.1(c), and considering the significance of the resource to a California Native American Tribe?~~

c) After considering the significance of the resource to a California Native American Tribe and applying the criteria in Public Resources Code §5024.1(c), a resource is determined by the lead agency, in its discretion and supported by substantial evidence, to be a tribal cultural resource?

2) Would the Project:

a) Potentially disturb any human remains, including those interred outside of dedicated cemeteries (see Cal. Public Resources Code, Ch. 1.75, §5097.98 and Health and Safety Code §7050.5(b))?

b) Potentially disturb any resource or place defined in Public Resources Code §5097.9 et seq (Native American Historical, Cultural and Sacred Sites)?

The Lytton Tribe looks forward to working further with you on this. Thank you.

Sincerely,

TOMARAS & OGAS, LLP

A handwritten signature in black ink that reads "Brenda L. Tomaras". The signature is fluid and cursive, with the first name "Brenda" being more prominent and the last name "Tomaras" following in a similar style.

Brenda Tomaras  
Attorneys for the Lytton Rancheria of California

December 18, 2015

Page 4